

Calendar No. 763

106TH CONGRESS
2^D SESSION

S. 2438

[Report No. 106–387]

To provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 13, 2000

Mr. MCCAIN (for himself, Mrs. MURRAY, and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 25, 2000

Reported under the authority of the order of the Senate of July 26, 2000, by Mr. MCCAIN with an amendment in the nature of a substitute

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49,**
 2 **UNITED STATES CODE; TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “King and Tsiorvas Pipeline Safety Improvement Act of
 5 2000”.

6 (b) **AMENDMENT OF TITLE 49, UNITED STATES**
 7 **CODE.**—Except as otherwise expressly provided, whenever
 8 in this Act an amendment or repeal is expressed in terms
 9 of an amendment to, or a repeal of, a section or other
 10 provision, the reference shall be considered to be made to
 11 a section or other provision of title 49, United States
 12 Code.

13 **SEC. 2. IMPLEMENTATION OF INSPECTOR GENERAL REC-**
 14 **COMMENDATIONS.**

15 (a) **IN GENERAL.**—The Secretary shall implement
 16 the safety improvement recommendations provided for in
 17 the Department of Transportation Inspector General’s Re-
 18 port (RT-2000-069).

19 (b) **REPORTS BY THE SECRETARY.**—Not later than
 20 90 days after the date of enactment of this Act, and every
 21 90 days thereafter until each of the recommendations re-
 22 ferred to in subsection (a) has been implemented, the Sec-
 23 retary shall transmit to the Committee on Commerce,
 24 Science, and Transportation of the Senate and the Com-
 25 mittee on Transportation and Infrastructure of the House

1 of Representatives a report on the specific actions taken
 2 to implement such recommendations.

3 (c) **REPORTS BY THE INSPECTOR GENERAL.**—The
 4 Inspector General shall periodically transmit to the Com-
 5 mittees referred to in subsection (b) a report assessing the
 6 Secretary's progress in implementing the recommenda-
 7 tions referred to in subsection (a) and identifying options
 8 for the Secretary to consider in accelerating recommenda-
 9 tion implementation.

10 **SEC. 3. NTSB SAFETY RECOMMENDATIONS.**

11 (a) **IN GENERAL.**—The Secretary of Transportation,
 12 the Administrator of Research and Special Program Ad-
 13 ministration, and the Director of the Office of Pipeline
 14 Safety shall fully comply with section 1135 of title 49,
 15 United States Code, to ensure timely responsiveness to
 16 National Transportation Safety Board recommendations
 17 about pipeline safety.

18 (b) **PUBLIC AVAILABILITY.**—The Secretary, Adminis-
 19 trator, or Director, respectively, shall make a copy of each
 20 recommendation on pipeline safety and response, as de-
 21 scribed in sections 1135 (a) and (b) of title 49, United
 22 States Code, available to the public at reasonable cost.

23 (d) **REPORTS TO CONGRESS.**—The Secretary, Admin-
 24 istrator, or Director, respectively, shall submit to the Con-
 25 gress by January 1 of each year a report containing each

1 recommendation on pipeline safety made by the Board
2 during the prior year and a copy of the response to each
3 such recommendation.

4 **SEC. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.**

5 (a) **TRAINING PLAN.**—Each pipeline operator shall
6 submit to the Secretary of Transportation a training plan
7 that is designed to enhance training for pipeline personnel
8 and to reduce the likelihood of accidents and injuries. The
9 plan shall be submitted not more than 6 months after the
10 date of enactment of this Act.

11 (b) **REQUIREMENTS.**—The enhanced training plan
12 shall include, at a minimum, criteria to demonstrate the
13 ability of an individual to safely and properly perform as-
14 signed tasks. The plan shall also provide for periodic re-
15 training and reexamination of pipeline employee qualifica-
16 tions as appropriate. The Secretary is authorized to review
17 the submitted plans to determine if they are sufficient to
18 provide a safe operating environment and shall periodi-
19 cally review the plans to ensure the continuation of a safe
20 operation. The Secretary may establish minimum stand-
21 ards for operators to include in the training plans.

22 **SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.**

23 Not later than 12 months after the date of enactment
24 of this Act, the Secretary shall issue regulations requiring
25 pipeline operators to periodically determine the adequacy

1 of pipelines to operate safely in unusually sensitive areas
 2 and high-density population areas. Such regulations shall,
 3 at a minimum, require operators to perform periodic in-
 4 spections or tests capable of identifying corrosion, me-
 5 chanical damage or other structural or operational defects
 6 that could be detrimental to safety and the environment.

7 **SEC. 6. SHUTDOWN AUTHORITY.**

8 Section 60112 is amended by adding at the end
 9 thereof the following:

10 “(f) SHUTDOWN AUTHORITY.—

11 “(1) IN GENERAL.—If the Secretary determines
 12 that allowing the continued operation of a hazardous
 13 liquid or natural gas pipeline creates an imminent
 14 hazard (as defined in section 5102(5)), the Sec-
 15 retary shall take such action as may be necessary to
 16 prevent the operator of that system from operating
 17 that pipeline for 30 days.

18 “(2) SUBSEQUENT EXTENSION AFTER NOTICE
 19 AND HEARING.—After taking action under para-
 20 graph (1), the Secretary may extend the period that
 21 action is in effect for an additional period of up to
 22 30 days if the Secretary determines, after notice and
 23 an opportunity for a hearing, that allowing the oper-
 24 ator to resume operation of the pipeline would create
 25 an imminent hazard (as defined in section 5102).”.

1 **SEC. 7. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS,**
 2 **AND COMMUNITY RIGHT TO KNOW.**

3 (a) Section 60116 is amended to read as follows:

4 **“§ 60116. Public education, emergency preparedness,**
 5 **and community right to know**

6 **“(a) PUBLIC EDUCATION PROGRAMS.—**

7 **“(1) Each owner or operator of a gas or haz-**
 8 **ardous liquid pipeline facility shall carry out a con-**
 9 **tinuing program to educate the public on the use of**
 10 **a one-call notification system prior to excavation and**
 11 **other damage prevention activities; the possible haz-**
 12 **ards associated with unintended releases from the**
 13 **pipeline facility; the physical indications that such a**
 14 **release may have occurred; what steps should be**
 15 **taken for public safety in the event of a pipeline re-**
 16 **lease; and how to report such an event.**

17 **“(2) Within 12 months after the date of enact-**
 18 **ment of the King and Tsiorvas Pipeline Safety Im-**
 19 **provement Act of 2000, each owner or operator of**
 20 **a gas or hazardous liquid pipeline facility shall re-**
 21 **view its existing public education program for effec-**
 22 **tiveness and modify the program as necessary. The**
 23 **completed plan shall include activities to advise mu-**
 24 **nicipalities, school districts, businesses, and resi-**
 25 **dents of pipeline facility locations. The completed**

1 plans shall be submitted to the Secretary and shall
2 be periodically reviewed by the Secretary.

3 ~~“(3) The Secretary may issue standards pre-~~
4 ~~scribing the elements of an effective public education~~
5 ~~program. The Secretary may also develop material~~
6 ~~for use in the program.~~

7 ~~“(b) EMERGENCY PREPAREDNESS.—Within 12~~
8 ~~months after the date of enactment of the King and~~
9 ~~Tsiorvas Pipeline Safety Improvement Act of 2000, an op-~~
10 ~~erator of a gas transmission or hazardous liquid pipeline~~
11 ~~facility shall initiate and maintain liaison with the State~~
12 ~~emergency response commissions, and local emergency~~
13 ~~planning committees in the areas of pipeline right-of-way,~~
14 ~~established under section 301 of the Emergency Planning~~
15 ~~and Community Right-To-Know Act of 1986 (42 U.S.C.~~
16 ~~11001) in each State in which it operates. An operator~~
17 ~~shall, when requested, make available to the State emer-~~
18 ~~gency response commissions and local emergency planning~~
19 ~~committees the information described in section 60102(d),~~
20 ~~any program for integrity management developed under~~
21 ~~section 60109(c), and information about implementation~~
22 ~~of that program. The information about the facility within~~
23 ~~the public official’s area shall also include, at a~~
24 ~~minimum—~~

1 “(1) the business name, address, telephone
2 number of the operator, including a 24-hour emer-
3 gency contact number;

4 “(2) a description of the facility including pipe
5 diameter, the product or products carried, and the
6 operating pressure;

7 “(3) maps showing the location of the facility
8 and any high consequence areas which the pipeline
9 facility traverses or adjoins and abuts;

10 “(4) a summary description of the integrity
11 measures the operator uses to assure safety and pro-
12 tection for the environment; and

13 “(5) a point of contact to respond to questions
14 from emergency response representative.

15 In a community without a local emergency planning com-
16 mittee, the operator shall maintain liaison with the local
17 fire, police, and other emergency response agencies.

18 “(c) COMMUNITY RIGHT TO KNOW.—Not later than
19 12 months after the date of enactment of the King and
20 Tsiorvas Pipeline Safety Improvement Act of 2000, and
21 annually thereafter, the owner or operator of each gas or
22 hazardous liquid pipeline facility shall provide to the gov-
23 erning body of each municipality in which the pipeline fa-
24 cility is located, a map identifying the location of such fa-
25 cility. The Secretary may provide technical assistance to

1 the pipeline industry on developing public safety and pub-
 2 lie education program content and best practices for pro-
 3 gram delivery; and on evaluating the effectiveness of the
 4 programs. The Secretary may also provide technical as-
 5 sistance to State and local officials in applying practices
 6 developed in these programs to their activities.

7 “(d) PUBLIC AVAILABILITY OF REPORTS.—The Sec-
 8 retary shall make available to the public a safety-related
 9 condition report filed by an operator under section 60102
 10 (h) and a report of a pipeline incident filed by an operator
 11 under this chapter.”.

12 (b) CONFORMING AMENDMENT.—The chapter anal-
 13 ysis for chapter 601 is amended by striking the item relat-
 14 ing to section 60116 and inserting the following:

“60116. Public education; emergency preparedness; community right to know”.

15 **SEC. 8. PENALTIES.**

16 Subsection 60122(a)(1) is amended—

17 (1) by striking “\$25,000” and inserting
 18 “\$100,000”; and

19 (2) by striking “\$100,000” and inserting
 20 “\$1,000,000”.

21 **SEC. 9. ENHANCED STATE OVERSIGHT.**

22 (a) Section 60106(a) is amended by inserting “(1)”
 23 before the current text of the subsection; redesignating
 24 paragraphs (1) and (2) as subparagraphs (A) and (B);
 25 and adding at the end the following:

1 “(2) If the Secretary accepts a certification under
 2 section 60105 of this title, the Secretary may make an
 3 agreement with a State authority authorizing it to partici-
 4 pate in the oversight of interstate pipeline transportation.
 5 An agreement shall include a plan for the State authority
 6 to participate in special investigations involving new con-
 7 struction or incidents.

8 “(3) An agreement under paragraph (2) may also in-
 9 clude a program allowing for participation by the State
 10 authority in other activities overseeing interstate pipeline
 11 transportation that supplement the Secretary’s program
 12 and address issues of local concern, provided that the Sec-
 13 retary determines that—

14 “(A) there are no significant gaps in the regu-
 15 latory jurisdiction of the State authority over intra-
 16 state pipeline transportation;

17 “(B) implementation of the agreement will not
 18 adversely affect the oversight of intrastate pipeline
 19 transportation by the State authority;

20 “(C) the program allowing participation of the
 21 State authority is consistent with the Secretary’s
 22 program for inspection;

23 “(D) the State promotes preparedness and pre-
 24 vention activities that enable communities to live
 25 safely with pipelines; and

1 “(E) the state meets the minimum standards
 2 for State one-call notification set forth in chapter
 3 61.”.

4 (b) Section 60106(d) is amended by inserting after
 5 the first sentence the following: “In addition, the Sec-
 6 retary may end an agreement for the oversight of inter-
 7 state pipeline transportation when the Secretary finds that
 8 there are significant gaps in the regulatory authority of
 9 the State authority over intrastate pipeline transportation,
 10 or that continued participation by the State authority in
 11 the oversight of interstate pipeline transportation is not
 12 consistent with the Secretary’s program or would ad-
 13 versely affect oversight of intrastate pipeline transpor-
 14 tation, or that the State is not promoting activities that
 15 enable communities to live safely with pipelines.”.

16 **SEC. 10. IMPROVED DATA AND DATA AVAILABILITY.**

17 Within 12 month after the date of enactment of this
 18 Act, the Secretary shall develop and implement a com-
 19 prehensive plan for the collection and use of gas and haz-
 20 ardous liquid pipeline data to revise the causal categories
 21 on the accident report forms to eliminate overlapping and
 22 confusing categories and include subcategories. The plan
 23 shall include components to provide the capability to per-
 24 form sound accident trend analysis and evaluations of

1 pipeline operator performance using normalized accident
2 data.

3 **SEC. 11. SUPPORT FOR INNOVATIVE TECHNOLOGY DEVEL-**
4 **OPMENT.**

5 As part of the Department's research and develop-
6 ment program, the Secretary of Transportation shall di-
7 rect research attention to the development of alternative
8 technologies—

9 “(1) to expand the defect detection capabilities
10 of internal inspection devices;

11 “(2) to inspect pipelines that cannot accommo-
12 date internal inspection devices available on the date
13 of enactment; and

14 “(3) to develop innovative techniques measuring
15 the structural integrity of pipelines.”.

16 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) Section 60125(a) is amended to read as follows:

18 “(a) GAS AND HAZARDOUS LIQUID.—To carry out
19 this chapter and other pipeline-related damage prevention
20 activities of this title (except for section 60107), there are
21 authorized to be appropriated to the Department of
22 Transportation

23 “(1) \$26,000,000 for fiscal year 2001, of which
24 \$20,000,000 is to be derived from user fees for fis-

1 eal year 2001 collected under section 60301 of this
2 title; and

3 “(2) \$30,000,000 for each of the fiscal years
4 2002 and 2003 of which \$23,000,000 is to be de-
5 rived from user fees for fiscal year 2002 and fiscal
6 year 2003 collected under section 60301 of this
7 title.”.

8 (b) Section 60125(e) is amended to read as follows:

9 “(e) STATE GRANTS.—Not more than the following
10 amounts may be appropriated to the Secretary to carry
11 out section 60107—

12 “(1) \$17,000,000 for fiscal year 2001, of which
13 \$15,000,000 is to be derived from user fees for fis-
14 eal year 2002 collected under section 60301 of this
15 title; and

16 “(2) \$20,000,000 for the fiscal years 2002 and
17 2003 of which \$18,000,000 is to be derived from
18 user fees for fiscal year 2002 and fiscal year 2003
19 collected under section 60301 of this title.”.

20 (c) Sections 60525 is amended by redesignating sub-
21 sections (d), (e), and (f) as subsections (e), (f), (g) and
22 inserting after subsection (e) the following:

23 “(d) OIL SPILL LIABILITY TRUST FUND.—Of the
24 amounts available in the Oil Spill Liability Trust Fund,
25 \$8,000,000 shall be transferred to carry out programs au-

1 thorized in this act for fiscal year 2001, fiscal year 2002,
 2 and fiscal year 2003.”.

3 **SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49,**
 4 **UNITED STATES CODE; TABLE OF CONTENTS.**

5 (a) *SHORT TITLE.*—*This Act may be cited as the*
 6 *“Pipeline Safety Improvement Act of 2000”.*

7 (b) *AMENDMENT OF TITLE 49, UNITED STATES*
 8 *CODE.*—*Except as otherwise expressly provided, whenever*
 9 *in this Act an amendment or repeal is expressed in terms*
 10 *of an amendment to, or a repeal of, a section or other provi-*
 11 *sion, the reference shall be considered to be made to a section*
 12 *or other provision of title 49, United States Code.*

13 **SEC. 2. IMPLEMENTATION OF INSPECTOR GENERAL REC-**
 14 **OMMENDATIONS.**

15 (a) *IN GENERAL.*—*Except as otherwise required by*
 16 *this Act, the Secretary shall implement the safety improve-*
 17 *ment recommendations provided for in the Department of*
 18 *Transportation Inspector General’s Report (RT-2000-069).*

19 (b) *REPORTS BY THE SECRETARY.*—*Not later than 90*
 20 *days after the date of enactment of this Act, and every 90*
 21 *days thereafter until each of the recommendations referred*
 22 *to in subsection (a) has been implemented, the Secretary*
 23 *shall transmit to the Committee on Commerce, Science, and*
 24 *Transportation of the Senate and the Committee on Trans-*
 25 *portation and Infrastructure of the House of Representa-*

1 *tives a report on the specific actions taken to implement*
 2 *such recommendations.*

3 *(c) REPORTS BY THE INSPECTOR GENERAL.—The In-*
 4 *spector General shall periodically transmit to the Commit-*
 5 *tees referred to in subsection (b) a report assessing the Sec-*
 6 *retary's progress in implementing the recommendations re-*
 7 *ferred to in subsection (a) and identifying options for the*
 8 *Secretary to consider in accelerating recommendation im-*
 9 *plementation.*

10 **SEC. 3. NTSB SAFETY RECOMMENDATIONS.**

11 *(a) IN GENERAL.—The Secretary of Transportation,*
 12 *the Administrator of Research and Special Program Ad-*
 13 *ministration, and the Director of the Office of Pipeline*
 14 *Safety shall fully comply with section 1135 of title 49,*
 15 *United States Code, to ensure timely responsiveness to Na-*
 16 *tional Transportation Safety Board recommendations*
 17 *about pipeline safety.*

18 *(b) PUBLIC AVAILABILITY.—The Secretary, Adminis-*
 19 *trator, or Director, respectively, shall make a copy of each*
 20 *recommendation on pipeline safety and response, as de-*
 21 *scribed in sections 1135 (a) and (b) of title 49, United*
 22 *States Code, available to the public at reasonable cost.*

23 *(c) REPORTS TO CONGRESS.—The Secretary, Admin-*
 24 *istrator, or Director, respectively, shall submit to the Con-*
 25 *gress by January 1 of each year a report containing each*

1 *recommendation on pipeline safety made by the Board dur-*
 2 *ing the prior year and a copy of the response to each such*
 3 *recommendation.*

4 **SEC. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.**

5 (a) *QUALIFICATION PLAN.*—Each pipeline operator
 6 shall make available to the Secretary of Transportation, or,
 7 in the case of an intrastate pipeline facility operator, the
 8 appropriate State regulatory agency, a plan that is de-
 9 signed to enhance the qualifications of pipeline personnel
 10 and to reduce the likelihood of accidents and injuries. The
 11 plan shall be made available not more than 6 months after
 12 the date of enactment of this Act, and the operator shall
 13 revise or update the plan as appropriate.

14 (b) *REQUIREMENTS.*—The enhanced qualification plan
 15 shall include, at a minimum, criteria to demonstrate the
 16 ability of an individual to safely and properly perform
 17 tasks identified under section 60102 of title 49, United
 18 States Code. The plan shall also provide for training and
 19 periodic reexamination of pipeline personnel qualifications
 20 and provide for requalification as appropriate. The Sec-
 21 retary, or, in the case of an intrastate pipeline facility oper-
 22 ator, the appropriate State regulatory agency, may review
 23 and certify the plans to determine if they are sufficient to
 24 provide a safe operating environment and shall periodically
 25 review the plans to ensure the continuation of a safe oper-

1 *ation. The Secretary may establish minimum standards for*
 2 *pipeline personnel training and evaluation, which may in-*
 3 *clude written examination, oral examination, work per-*
 4 *formance history review, observation during performance*
 5 *on the job, on the job training, simulations, or other forms*
 6 *of assessment.*

7 *(c) REPORT TO CONGRESS.—*

8 *(1) IN GENERAL.—The Secretary shall submit a*
 9 *report to the Congress evaluating the effectiveness of*
 10 *operator qualification and training efforts,*
 11 *including—*

12 *(A) actions taken by inspectors;*

13 *(B) recommendations made by inspectors*
 14 *for changes to operator qualification and train-*
 15 *ing programs; and*

16 *(C) industry responses to those actions and*
 17 *recommendations.*

18 *(2) CRITERIA.—The Secretary may establish cri-*
 19 *teria for use in evaluating and reporting on operator*
 20 *qualification and training for purposes of this sub-*
 21 *section.*

22 *(3) DUE DATE.—The Secretary shall submit the*
 23 *report required by paragraph (1) to the Congress 3*
 24 *years after the date of enactment of this Act.*

1 **SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.**

2 *Section 60109 is amended by adding at the end the*
 3 *following:*

4 “(c) *INTEGRITY MANAGEMENT.*—

5 “(1) *GENERAL REQUIREMENT.*—*The Secretary*
 6 *shall promulgate regulations requiring operators of*
 7 *hazardous liquid pipelines and natural gas trans-*
 8 *mission pipelines to evaluate the risks to the opera-*
 9 *tor’s pipeline facilities in areas identified pursuant to*
 10 *subsection (a)(1), and to adopt and implement a pro-*
 11 *gram for integrity management that reduces the risk*
 12 *of an incident in those areas. The regulations shall be*
 13 *issued no later than one year after the Secretary has*
 14 *issued standards pursuant to subsections (a) and (b)*
 15 *of this section or by December 31, 2001, whichever is*
 16 *sooner.*

17 “(2) *STANDARDS FOR PROGRAM.*—*In promul-*
 18 *gating regulations under this section, the Secretary*
 19 *shall require an operator’s integrity management*
 20 *plan to be based on risk analysis and each plan shall*
 21 *include, at a minimum—*

22 “(A) *internal inspection or pressure testing,*
 23 *or another equally protective method, where these*
 24 *techniques are not feasible, that periodically as-*
 25 *sesses the integrity of the pipeline;*

1 “(B) clearly defined criteria for evaluating
 2 the results of the inspection or testing done under
 3 subparagraph (A) and procedures to ensure iden-
 4 tified problems are corrected in a timely manner;

5 “(C) measures, as appropriate, that prevent
 6 and mitigate unintended releases, such as leak
 7 detection, integrity evaluation, restrictive flow
 8 devices, or other measures; and

9 “(D) a description of the operators’ con-
 10 sultation with State and local officials during
 11 development of the integrity management plan
 12 and actions taken by the operator to address
 13 safety concerns raised by such officials.

14 “(3) CRITERIA FOR PROGRAM STANDARDS.—In
 15 deciding how frequently the integrity inspections or
 16 testing under paragraph (2)(A) must be conducted,
 17 an operator shall take into account the potential for
 18 new defects developing or previously identified struc-
 19 tural defects caused by construction or installation,
 20 the operational characteristics of the pipeline, and
 21 leak history. In addition, the Secretary may establish
 22 a minimum testing requirement for operators of pipe-
 23 lines to conduct internal inspections.

24 “(4) STATE ROLE.—A State authority that has
 25 an agreement in effect with the Secretary under sec-

1 *tion 60106 is authorized to review and assess an op-*
2 *erator's risk analyses and integrity management*
3 *plans required under this section for interstate pipe-*
4 *lines located in that State. The reviewing State au-*
5 *thority shall provide the Secretary with a written as-*
6 *essment of the plans, make recommendations, as ap-*
7 *propriate, to address safety concerns not adequately*
8 *addressed in the operator's plans, and submit docu-*
9 *mentation explaining the State-proposed plan revi-*
10 *sions. The Secretary shall carefully consider the*
11 *State's proposals and work in consultation with the*
12 *States and operators to address safety concerns.*

13 *“(5) MONITORING IMPLEMENTATION.—The Sec-*
14 *retary of Transportation shall review the risk anal-*
15 *ysis and program for integrity management required*
16 *under this section and provide for continued moni-*
17 *toring of such plans. Not later than 2 years after the*
18 *implementation of integrity management plans under*
19 *this section, the Secretary shall complete an assess-*
20 *ment and evaluation of the effects on safety and the*
21 *environment of extending all of the requirements*
22 *mandated by the regulations described in paragraph*
23 *(1) to additional areas. The Secretary shall submit*
24 *the assessment and evaluation to Congress along with*

1 *any recommendations to improve and expand the uti-*
 2 *lization of integrity management plans.”.*

3 **SEC. 6. ENFORCEMENT.**

4 *(a) IN GENERAL.—Section 60112 is amended—*

5 *(1) by striking subsection (a) and inserting the*
 6 *following:*

7 *“(a) GENERAL AUTHORITY.—After notice and an op-*
 8 *portunity for a hearing, the Secretary of Transportation*
 9 *may decide a pipeline facility is hazardous if the Secretary*
 10 *decides that—*

11 *“(1) operation of the facility is or would be haz-*
 12 *ardous to life, property, or the environment; or*

13 *“(2) the facility is, or would be, constructed or*
 14 *operated, of a component of the facility is, or would*
 15 *be, constructed or operated with equipment, material,*
 16 *or a technique that the Secretary decides is hazardous*
 17 *to life, property, or the environment.”;*

18 *(2) by striking “is hazardous,” in subsection (d)*
 19 *and inserting “is, or would be, hazardous”; and*

20 *(3) by adding at the end thereof the following:*

21 *“(f) SHUTDOWN AUTHORITY.—*

22 *“(1) IN GENERAL.—If the Secretary, or, in the*
 23 *case of an intrastate pipeline facility operator, the*
 24 *appropriate State regulatory agency, determines that*
 25 *allowing the continued operation of a hazardous liq-*

uid or natural gas pipeline creates an imminent hazard (as defined in section 5102(5)), the Secretary or the agency shall take such action as may be necessary to prevent or restrict the operation of that system for 30 days.

“(2) *SUBSEQUENT EXTENSION AFTER NOTICE AND HEARING.*—After taking action under paragraph (1), the Secretary or the agency may extend the period that action is in effect if the Secretary or the agency determines, after notice and an opportunity for a hearing, that allowing the operation of the pipeline to resume would create an imminent hazard (as defined in section 5102).”.

**SEC. 7. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS,
AND COMMUNITY RIGHT TO KNOW.**

(a) Section 60116 is amended to read as follows:

**“§ 60116. Public education, emergency preparedness,
and community right to know**

“(a) *PUBLIC EDUCATION PROGRAMS.*—

“(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the

1 *pipeline facility, the physical indications that such*
 2 *a release may have occurred, what steps should be*
 3 *taken for public safety in the event of a pipeline re-*
 4 *lease, and how to report such an event.*

5 *“(2) Within 12 months after the date of enact-*
 6 *ment of the Pipeline Safety Improvement Act of 2000,*
 7 *each owner or operator of a gas or hazardous liquid*
 8 *pipeline facility shall review its existing public edu-*
 9 *cation program for effectiveness and modify the pro-*
 10 *gram as necessary. The completed program shall in-*
 11 *clude activities to advise affected municipalities,*
 12 *school districts, businesses, and residents of pipeline*
 13 *facility locations. The completed program shall be*
 14 *submitted to the Secretary or, in the case of an intra-*
 15 *state pipeline facility operator, the appropriate State*
 16 *agency and shall be periodically reviewed by the Sec-*
 17 *retary or, in the case of an intrastate pipeline facility*
 18 *operator, the appropriate State agency.*

19 *“(3) The Secretary may issue standards pre-*
 20 *scribing the elements of an effective public education*
 21 *program. The Secretary may also develop material*
 22 *for use in the program.*

23 *“(b) EMERGENCY PREPAREDNESS.—*

24 *“(1) OPERATOR LIAISON.—Within 12 months*
 25 *after the date of enactment of the Pipeline Safety Im-*

1 *provement Act of 2000, an operator of a gas trans-*
 2 *mission or hazardous liquid pipeline facility shall*
 3 *initiate and maintain liaison with the State emer-*
 4 *gency response commissions, and local emergency*
 5 *planning committees in the areas of pipeline right-of-*
 6 *way, established under section 301 of the Emergency*
 7 *Planning and Community Right-To-Know Act of*
 8 *1986 (42 U.S.C. 11001) in each State in which it op-*
 9 *erates.*

10 “(2) *INFORMATION.*—An operator shall, upon re-
 11 *quest, make available to the State emergency response*
 12 *commissions and local emergency planning commit-*
 13 *tees, and shall make available to the Office of Pipeline*
 14 *Safety in a standardized form for the purpose of pro-*
 15 *viding the information to the public, the information*
 16 *described in section 60102(d), any program for integ-*
 17 *egrity management, and information about implemen-*
 18 *tation of that program. The information about the fa-*
 19 *cility shall also include, at a minimum—*

20 “(A) *the business name, address, telephone*
 21 *number of the operator, including a 24-hour*
 22 *emergency contact number;*

23 “(B) *a description of the facility including*
 24 *pipe diameter, the product or products carried,*
 25 *and the operating pressure;*

1 “(C) *with respect to transmission pipeline*
 2 *facilities, maps showing the location of the facil-*
 3 *ity and, when available, any high consequence*
 4 *areas which the pipeline facility traverses or ad-*
 5 *joins and abuts;*

6 “(D) *a summary description of the integ-*
 7 *riety measures the operator uses to assure safety*
 8 *and protection for the environment; and*

9 “(E) *a point of contact to respond to ques-*
 10 *tions from emergency response representative.*

11 “(3) *SMALLER COMMUNITIES.—In a community*
 12 *without a local emergency planning committee, the*
 13 *operator shall maintain liaison with the local fire,*
 14 *police, and other emergency response agencies.*

15 “(4) *PUBLIC ACCESS.—The Secretary shall pre-*
 16 *scribe requirements for public access, as appropriate,*
 17 *to this information, including a requirement that the*
 18 *information be made available to the public by widely*
 19 *accessible computerized database.*

20 “(c) *COMMUNITY RIGHT TO KNOW.—Not later than 12*
 21 *months after the date of enactment of the Pipeline Safety*
 22 *Improvement Act of 2000, and annually thereafter, the*
 23 *owner or operator of each gas transmission or hazardous*
 24 *liquid pipeline facility shall provide to the governing body*
 25 *of each municipality in which the pipeline facility is lo-*

1 cated, a map identifying the location of such facility. The
 2 map may be provided in electronic form. The Secretary
 3 may provide technical assistance to the pipeline industry
 4 on developing public safety and public education program
 5 content and best practices for program delivery, and on
 6 evaluating the effectiveness of the programs. The Secretary
 7 may also provide technical assistance to State and local of-
 8 ficials in applying practices developed in these programs
 9 to their activities to promote pipeline safety.

10 “(d) *PUBLIC AVAILABILITY OF REPORTS.*—The Sec-
 11 retary shall—

12 “(1) make available to the public—

13 “(A) a safety-related condition report filed
 14 by an operator under section 60102(h);

15 “(B) a report of a pipeline incident filed by
 16 an operator;

17 “(C) the results of any inspection by the Of-
 18 fice of Pipeline Safety or a State regulatory offi-
 19 cial; and

20 “(D) a description of any corrective action
 21 taken in response to a safety-related condition
 22 reported under subparagraph (A), (B), or (C);
 23 and

24 “(2) prescribe requirements for public access, as
 25 appropriate, to integrity management program infor-

1 *mation prepared under this chapter, including re-*
 2 *quirements that will ensure data accessibility to the*
 3 *greatest extent feasible.”.*

4 *(b) CONFORMING AMENDMENT.—The chapter analysis*
 5 *for chapter 601 is amended by striking the item relating*
 6 *to section 60116 and inserting the following:*

“60116. Public education, emergency preparedness, community right to know”.

7 **SEC. 8. PENALTIES.**

8 *(a) CIVIL PENALTIES.—Section 60122 is amended—*

9 *(1) by striking “\$25,000” in subsection (a)(1)*
 10 *and inserting “\$500,000”;*

11 *(2) by striking “\$500,000” in subsection (a)(1)*
 12 *and inserting “\$1,000,000”;*

13 *(3) by adding at the end of subsection (a)(1) the*
 14 *following: “The preceding sentence does not apply to*
 15 *judicial enforcement action under section 60120 or*
 16 *60121.”; and*

17 *(4) by striking subsection (b) and inserting the*
 18 *following:*

19 *“(b) PENALTY CONSIDERATIONS.—In determining the*
 20 *amount of a civil penalty under this section—*

21 *“(1) the Secretary shall consider—*

22 *“(A) the nature, circumstances, and gravity*
 23 *of the violation, including adverse impact on the*
 24 *environment;*

1 “(B) with respect to the violator, the degree
2 of culpability, any history of prior violations,
3 the ability to pay, any effect on ability to con-
4 tinue doing business; and

5 “(C) good faith in attempting to comply;
6 and

7 “(2) the Secretary may consider—

8 “(A) the economic benefit gained from the
9 violation without any discount because of subse-
10 quent damages; and

11 “(B) other matters that justice requires.”.

12 (b) *EXCAVATOR DAMAGE*.—Section 60123(d) is
13 amended—

14 (1) by striking “knowingly and willfully”;

15 (2) by inserting “knowingly and willfully” before
16 “engages” in paragraph (1); and

17 (3) striking paragraph (2)(B) and inserting the
18 following:

19 “(B) a pipeline facility, is aware of dam-
20 age, and does not report the damage promptly to
21 the operator of the pipeline facility and to other
22 appropriate authorities; or”.

23 (c) *CIVIL ACTIONS*.—Section 60120(a)(1) is amended
24 to read as follows:

1 “(1) *On the request of the Secretary of Transportation,*
2 *the Attorney General may bring a civil action in an appro-*
3 *priate district court of the United States to enforce this*
4 *chapter, including section 60112 of this chapter, or a regu-*
5 *lation prescribed or order issued under this chapter. The*
6 *court may award appropriate relief, including a temporary*
7 *or permanent injunction, punitive damages, and assessment*
8 *of civil penalties considering the same factors as prescribed*
9 *for the Secretary in an administrative case under section*
10 *60122.”.*

11 **SEC. 9. STATE OVERSIGHT ROLE.**

12 (a) *STATE AGREEMENTS WITH CERTIFICATION.—Sec-*
13 *tion 60106 is amended—*

14 (1) *by striking “GENERAL AUTHORITY.—” in*
15 *subsection (a) and inserting “AGREEMENTS WITHOUT*
16 *CERTIFICATION.—”;*

17 (2) *by redesignating subsections (b), (c), and (d)*
18 *as subsections (c), (d), and (e); and*

19 (3) *by inserting after subsection (a) the fol-*
20 *lowing:*

21 “(b) *AGREEMENTS WITH CERTIFICATION.—*

22 “(1) *IN GENERAL.—If the Secretary accepts a*
23 *certification under section 60105 of this title and*
24 *makes the determination required under this sub-*
25 *section, the Secretary may make an agreement with*

1 *a State authority authorizing it to participate in the*
 2 *oversight of interstate pipeline transportation. Each*
 3 *such agreement shall include a plan for the State au-*
 4 *thority to participate in special investigations involv-*
 5 *ing incidents or new construction and allow the State*
 6 *authority to participate in other activities overseeing*
 7 *interstate pipeline transportation or to assume addi-*
 8 *tional inspection or investigatory duties.*

9 “(2) *DETERMINATIONS REQUIRED.—The Sec-*
 10 *retary may not enter into an agreement under this*
 11 *subsection, unless the Secretary determines that—*

12 “(A) *the agreement allowing participation*
 13 *of the State authority is consistent with the Sec-*
 14 *retary’s program for inspection and consistent*
 15 *with the safety policies and provisions provided*
 16 *under this chapter;*

17 “(B) *the interstate participation agreement*
 18 *would not adversely affect the oversight respon-*
 19 *sibilities of intrastate pipeline transportation by*
 20 *the State authority;*

21 “(C) *the State is carrying out a program*
 22 *demonstrated to promote preparedness and risk*
 23 *prevention activities that enable communities to*
 24 *live safely with pipelines;*

1 “(D) the State meets the minimum stand-
 2 ards for State one-call notification set forth in
 3 chapter 61; and

4 “(E) the actions planned under the agree-
 5 ment would not impede interstate commerce or
 6 jeopardize public safety.

7 “(3) *EXISTING AGREEMENTS*.—Except as pro-
 8 vided in subsection (e), an agreement between the Sec-
 9 retary and a State authority that is in effect on the
 10 date of enactment of the Pipeline Safety Improvement
 11 Act of 2000 shall remain in effect until the Secretary
 12 determines that the State meets the requirements for
 13 a determination under paragraph (2).”.

14 (b) *ENDING AGREEMENTS*.—Subsection (e) of section
 15 60106, as redesignated by subsection (a), is amended to read
 16 as follows:

17 “(e) *ENDING AGREEMENTS*.—

18 “(1) *PERMISSIVE TERMINATION*.—The Secretary
 19 may end an agreement under this section when the
 20 Secretary finds that the State authority has not com-
 21 plied with any provision of the agreement.

22 “(2) *MANDATORY TERMINATION OF AGREE-*
 23 *MENT*.—The Secretary shall end an agreement for the
 24 oversight of interstate pipeline transportation if the
 25 Secretary finds that—

1 “(A) implementation of such agreement has
 2 resulted in a gap in the oversight responsibilities
 3 of intrastate pipeline transportation by the State
 4 authority;

5 “(B) the State actions under the agreement
 6 have failed to meet the requirements under sub-
 7 section (b); or

8 “(C) continued participation by the State
 9 authority in the oversight of interstate pipeline
 10 transportation is not promoting pipeline safety.

11 “(3) *PROCEDURAL REQUIREMENTS.*—The Sec-
 12 retary shall give the notice and an opportunity for a
 13 hearing to a State authority before ending an agree-
 14 ment under this section. The Secretary may provide
 15 a State an opportunity to correct any deficiencies be-
 16 fore ending an agreement. The finding and decision
 17 to end the agreement shall be published in the Federal
 18 Register and may not become effective for at least 15
 19 days after the date of publication unless the Secretary
 20 finds that continuation of an agreement poses an im-
 21 minent hazard.”.

22 (c) *CONTINUATION OF INTERSTATE AGENT AGREE-*
 23 *MENT AUTHORITY.*—

24 (1) *IN GENERAL.*—If an agreement was in effect
 25 in 1999 between the Secretary of Transportation or

1 *one of its agencies and a State to permit that State*
 2 *to oversee interstate pipeline transportation, the Sec-*
 3 *retary shall continue to permit that State to carry*
 4 *out activities under the agreement, including inspec-*
 5 *tion responsibilities and other actions to ensure com-*
 6 *pliance with Federal pipeline safety regulations.*

7 (2) *TERMINATION.*—*Notwithstanding paragraph*
 8 *(1), the Secretary may terminate an agreement de-*
 9 *scribed in that paragraph if—*

10 (A) *the State wishes to withdraw from the*
 11 *agreement;*

12 (B) *implementation of the agreement has*
 13 *resulted in gaps in the oversight responsibilities*
 14 *of intrastate pipeline transportation by the*
 15 *State; or*

16 (C) *the State's oversight actions under the*
 17 *agreement have had an adverse impact on pipe-*
 18 *line safety or impeded interstate commerce.*

19 (3) *PROCEDURAL REQUIREMENTS FOR TERMI-*
 20 *NATION.*—*Before terminating an agreement described*
 21 *in paragraph (1), the Secretary shall give notice and*
 22 *an opportunity for a hearing to the State, and pro-*
 23 *vide an opportunity for the State to correct any defi-*
 24 *ciencies. The Secretary shall publish the decision to*
 25 *terminate such an agreement and the reasons there-*

1 *fore in the Federal Register not less than 15 days be-*
 2 *fore the termination is effective, unless the Secretary*
 3 *finds that continuation of an agreement poses an im-*
 4 *minent hazard.*

5 **SEC. 10. IMPROVED DATA AND DATA AVAILABILITY.**

6 *(a) IN GENERAL.—Within 12 months after the date*
 7 *of enactment of this Act, the Secretary shall develop and*
 8 *implement a comprehensive plan for the collection and use*
 9 *of gas and hazardous liquid pipeline data to revise the caus-*
 10 *al categories on the incident report forms to eliminate over-*
 11 *lapping and confusing categories and include subcategories.*
 12 *The plan shall include components to provide the capability*
 13 *to perform sound incident trend analysis and evaluations*
 14 *of pipeline operator performance using normalized accident*
 15 *data.*

16 *(b) REPORT OF RELEASES EXCEEDING 5 GALLONS.—*
 17 *Section 60117(b) is amended—*

18 *(1) by inserting “(1)” before “To”;*

19 *(2) redesignating paragraphs (1) and (2) as sub-*
 20 *paragraphs (A) and (B);*

21 *(3) inserting before the last sentence the fol-*
 22 *lowing:*

23 *“(2) A person owning or operating a hazardous liquid*
 24 *pipeline facility shall report to the Secretary each release*
 25 *to the environment greater than five gallons of the haz-*

1 *ardous liquid or carbon dioxide transported. This section*
 2 *applies to releases from pipeline facilities regulated under*
 3 *this chapter. A report must include the location of the re-*
 4 *lease, fatalities and personal injuries, type of product,*
 5 *amount of product release, cause or causes of the release,*
 6 *extent of damage to property and the environment, and the*
 7 *response undertaken to clean up the release.*

8 “(3) *During the course of an incident investigation,*
 9 *a person owning or operating a pipeline facility shall make*
 10 *records, reports, and information required under subsection*
 11 *(a) of this section or other reasonably described records, re-*
 12 *ports, and information relevant to the incident investiga-*
 13 *tion, available to the Secretary within the time limits pre-*
 14 *scribed in a written request.”; and*

15 (4) *indenting the first word of the last sentence and*
 16 *inserting “(4)” before “The Secretary” in that sentence.*

17 (c) *PENALTY AUTHORITIES.—*

18 (1) *Section 60122(a) is amended by striking*
 19 *“60114(c)” and inserting “60117(b)(3)”.*

20 (2) *Section 60123(a) is amended by striking*
 21 *“60114(c),” and inserting “60117(b)(3),”.*

22 (d) *ESTABLISHMENT OF NATIONAL DEPOSITORY.—*
 23 *Section 60117 is amended by adding at the end the fol-*
 24 *lowing:*

1 “(l) *NATIONAL DEPOSITORY.*—*The Secretary*
 2 *shall establish a national depository of data on events*
 3 *and conditions, including spill histories and correc-*
 4 *tive actions for specific incidents, that can be used to*
 5 *evaluate the risk of, and to prevent, pipeline failures*
 6 *and releases. The Secretary shall administer the pro-*
 7 *gram through the Bureau of Transportation Statis-*
 8 *tics, in cooperation with the Research and Special*
 9 *Programs Administration, and shall make such infor-*
 10 *mation available for use by State and local planning*
 11 *and emergency response authorities and the public.”.*

12 **SEC. 11. INNOVATIVE TECHNOLOGY DEVELOPMENT.**

13 (a) *IN GENERAL.*—*As part of the Department of*
 14 *Transportation’s research and development program, the*
 15 *Secretary of Transportation shall direct research attention*
 16 *to the development of alternative technologies—*

17 (1) *to expand the capabilities of internal inspec-*
 18 *tion devices to identify and accurately measure de-*
 19 *fects and anomalies;*

20 (2) *to inspect pipelines that cannot accommodate*
 21 *internal inspection devices available on the date of*
 22 *enactment;*

23 (3) *to develop innovative techniques measuring*
 24 *the structural integrity of pipelines;*

1 (4) to improve the capability, reliability, and
2 practicality of external leak detection devices; and

3 (5) to develop and improve alternative tech-
4 nologies to identify and monitor outside force damage
5 to pipelines.

6 (b) COOPERATIVE.—The Secretary may participate in
7 additional technological development through cooperative
8 agreements with trade associations, academic institutions,
9 or other qualified organizations.

10 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) GAS AND HAZARDOUS LIQUIDS.—Section
12 60125(a) is amended to read as follows:

13 “(a) GAS AND HAZARDOUS LIQUID.—To carry out
14 this chapter and other pipeline-related damage prevention
15 activities of this title (except for section 60107), there are
16 authorized to be appropriated to the Department of
17 Transportation—

18 “(1) \$26,000,000 for fiscal year 2001, of which
19 \$20,000,000 is to be derived from user fees for fiscal
20 year 2001 collected under section 60301 of this title;
21 and

22 “(2) \$30,000,000 for each of the fiscal years 2002
23 and 2003 of which \$23,000,000 is to be derived from
24 user fees for fiscal year 2002 and fiscal year 2003 col-
25 lected under section 60301 of this title.”.

1 (b) *GRANTS TO STATES*.—Section 60125(c) is amended
2 to read as follows:

3 “(c) *STATE GRANTS*.—Not more than the following
4 amounts may be appropriated to the Secretary to carry out
5 section 60107—

6 “(1) \$17,000,000 for fiscal year 2001, of which
7 \$15,000,000 is to be derived from user fees for fiscal
8 year 2001 collected under section 60301 of this title;
9 and

10 “(2) \$20,000,000 for the fiscal years 2002 and
11 2003 of which \$18,000,000 is to be derived from user
12 fees for fiscal year 2002 and fiscal year 2003 collected
13 under section 60301 of this title.”.

14 (c) *OIL SPILLS*.—Sections 60525 is amended by redes-
15 ignating subsections (d), (e), and (f) as subsections (e), (f),
16 (g) and inserting after subsection (c) the following:

17 “(d) *OIL SPILL LIABILITY TRUST FUND*.—Of the
18 amounts available in the Oil Spill Liability Trust Fund,
19 \$8,000,000 shall be transferred to carry out programs au-
20 thorized in this Act for fiscal year 2001, fiscal year 2002,
21 and fiscal year 2003.”.

22 **SEC. 13. OPERATOR ASSISTANCE IN INVESTIGATIONS.**

23 (a) *IN GENERAL*.—If the Department of Transpor-
24 tation or the National Transportation Safety Board inves-
25 tigate an accident, the operator involved shall make avail-

1 *able to the representative of the Department or the Board*
 2 *all records and information that in any way pertain to*
 3 *the accident (including integrity management plans and*
 4 *test results), and shall afford all reasonable assistance in*
 5 *the investigation of the accident.*

6 (b) *HAZARDOUS FACILITY DESIGNATION.*—*A facility*
 7 *operated by an operator that fails to take prompt action*
 8 *to relieve, reassign, or place on leave (with or without com-*
 9 *pensation) any employee whose duties affect public safety*
 10 *and whose performance of those duties is a subject of such*
 11 *an accident investigation until the conclusion of the inves-*
 12 *tigation is deemed to be hazardous under section 60112. The*
 13 *Secretary shall take action under section 60112(d) against*
 14 *that facility.*

15 **SEC. 14. PROTECTION OF EMPLOYEES PROVIDING PIPE-**
 16 **LINE SAFETY INFORMATION.**

17 (a) *IN GENERAL.*—*Chapter 601 is amended by adding*
 18 *at the end the following:*

19 **“§ 60129. Protection of employees providing pipeline**
 20 **safety information**

21 **“(a) DISCRIMINATION AGAINST PIPELINE EMPLOY-**
 22 **EES.**—*No pipeline operator or contractor or subcontractor*
 23 *of a pipeline may discharge an employee or otherwise dis-*
 24 *criminate against an employee with respect to compensa-*
 25 *tion, terms, conditions, or privileges of employment because*

1 *the employee (or any person acting pursuant to a request*
2 *of the employee)—*

3 “(1) *provided, caused to be provided, or is about*
4 *to provide (with any knowledge of the employer) or*
5 *cause to be provided to the employer or Federal Gov-*
6 *ernment information relating to any violation or al-*
7 *leged violation of any order, regulation, or standard*
8 *of the Research and Special Programs Administration*
9 *or any other provision of Federal law relating to*
10 *pipeline safety under this chapter or any other law*
11 *of the United States;*

12 “(2) *has filed, caused to be filed, or is about to*
13 *file (with any knowledge of the employer) or cause to*
14 *be filed a proceeding relating to any violation or al-*
15 *leged violation of any order, regulation, or standard*
16 *of the Administration or any other provision of Fed-*
17 *eral law relating to pipeline safety under this chapter*
18 *or any other law of the United States;*

19 “(3) *testified or is about to testify in such a pro-*
20 *ceeding; or*

21 “(4) *assisted or participated or is about to assist*
22 *or participate in such a proceeding.*

23 “(b) *DEPARTMENT OF LABOR COMPLAINT PROCE-*
24 *DURE.—*

1 “(1) *FILING AND NOTIFICATION.*—A person who
 2 believes that he or she has been discharged or other-
 3 wise discriminated against by any person in viola-
 4 tion of subsection (a) may, not later than 90 days
 5 after the date on which such violation occurs, file (or
 6 have any person file on his or her behalf) a complaint
 7 with the Secretary of Labor alleging such discharge or
 8 discrimination. Upon receipt of such a complaint, the
 9 Secretary of Labor shall notify, in writing, the person
 10 named in the complaint and the Administrator of the
 11 Research and Special Programs Administration of the
 12 filing of the complaint, of the allegations contained in
 13 the complaint, of the substance of evidence supporting
 14 the complaint, and of the opportunities that will be
 15 afforded to such person under paragraph (2).

16 “(2) *INVESTIGATION; PRELIMINARY ORDER.*—

17 “(A) *IN GENERAL.*—Not later than 60 days
 18 after the date of receipt of a complaint filed
 19 under paragraph (1) and after affording the per-
 20 son named in the complaint an opportunity to
 21 submit to the Secretary of Labor a written re-
 22 sponse to the complaint and an opportunity to
 23 meet with a representative of the Secretary to
 24 present statements from witnesses, the Secretary
 25 of Labor shall conduct an investigation and de-

1 *termine whether there is reasonable cause to be-*
 2 *lieve that the complaint has merit and notify in*
 3 *writing the complainant and the person alleged*
 4 *to have committed a violation of subsection (a)*
 5 *of the Secretary's findings. If the Secretary of*
 6 *Labor concludes that there is reasonable cause to*
 7 *believe that a violation of subsection (a) has oc-*
 8 *curred, the Secretary shall accompany the Sec-*
 9 *retary's findings with a preliminary order pro-*
 10 *viding the relief prescribed by paragraph (3)(B).*
 11 *Not later than 30 days after the date of notifica-*
 12 *tion of findings under this paragraph, either the*
 13 *person alleged to have committed the violation or*
 14 *the complainant may file objections to the find-*
 15 *ings or preliminary order, or both, and request*
 16 *a hearing on the record. The filing of such objec-*
 17 *tions shall not operate to stay any reinstatement*
 18 *remedy contained in the preliminary order. Such*
 19 *hearings shall be conducted expeditiously. If a*
 20 *hearing is not requested in such 30-day period,*
 21 *the preliminary order shall be deemed a final*
 22 *order that is not subject to judicial review.*

23 *“(B) REQUIREMENTS.—*

24 *“(i) REQUIRED SHOWING BY COM-*
 25 *PLAINANT.—The Secretary of Labor shall*

1 *dismiss a complaint filed under this sub-*
 2 *section and shall not conduct an investiga-*
 3 *tion otherwise required under subparagraph*
 4 *(A) unless the complainant makes a prima*
 5 *facie showing that any behavior described*
 6 *in paragraphs (1) through (4) of subsection*
 7 *(a) was a contributing factor in the unfa-*
 8 *vorable personnel action alleged in the com-*
 9 *plaint.*

10 “(ii) *SHOWING BY EMPLOYER.—Not-*
 11 *withstanding a finding by the Secretary*
 12 *that the complainant has made the showing*
 13 *required under clause (i), no investigation*
 14 *otherwise required under subparagraph (A)*
 15 *shall be conducted if the employer dem-*
 16 *onstrates, by clear and convincing evidence,*
 17 *that the employer would have taken the*
 18 *same unfavorable personnel action in the*
 19 *absence of that behavior.*

20 “(iii) *CRITERIA FOR DETERMINATION*
 21 *BY SECRETARY.—The Secretary may deter-*
 22 *mine that a violation of subsection (a) has*
 23 *occurred only if the complainant dem-*
 24 *onstrates that any behavior described in*
 25 *paragraphs (1) through (4) of subsection (a)*

1 *was a contributing factor in the unfavorable*
2 *personnel action alleged in the complaint.*

3 “(iv) *PROHIBITION.—Relief may not*
4 *be ordered under subparagraph (A) if the*
5 *employer demonstrates by clear and con-*
6 *vincing evidence that the employer would*
7 *have taken the same unfavorable personnel*
8 *action in the absence of that behavior.*

9 “(3) *FINAL ORDER.—*

10 “(A) *DEADLINE FOR ISSUANCE; SETTLE-*
11 *MENT AGREEMENTS.—Not later than 120 days*
12 *after the date of conclusion of a hearing under*
13 *paragraph (2), the Secretary of Labor shall issue*
14 *a final order providing the relief prescribed by*
15 *this paragraph or denying the complaint. At any*
16 *time before issuance of a final order, a pro-*
17 *ceeding under this subsection may be terminated*
18 *on the basis of a settlement agreement entered*
19 *into by the Secretary of Labor, the complainant,*
20 *and the person alleged to have committed the*
21 *violation.*

22 “(B) *REMEDY.—If, in response to a com-*
23 *plaint filed under paragraph (1), the Secretary*
24 *of Labor determines that a violation of sub-*
25 *section (a) has occurred, the Secretary of Labor*

1 *shall order the person who committed such viola-*
2 *tion to—*

3 “(i) *take affirmative action to abate*
4 *the violation;*

5 “(ii) *reinstate the complainant to his*
6 *or her former position together with the*
7 *compensation (including back pay) and re-*
8 *store the terms, conditions, and privileges*
9 *associated with his or her employment; and*

10 “(iii) *provide compensatory damages*
11 *to the complainant.*

12 *If such an order is issued under this para-*
13 *graph, the Secretary of Labor, at the request of*
14 *the complainant, shall assess against the person*
15 *whom the order is issued a sum equal to the ag-*
16 *gregate amount of all costs and expenses (includ-*
17 *ing attorney’s and expert witness fees) reason-*
18 *ably incurred, as determined by the Secretary of*
19 *Labor, by the complainant for, or in connection*
20 *with, the bringing the complaint upon which the*
21 *order was issued.*

22 “(C) *FRIVOLOUS COMPLAINTS.—If the Sec-*
23 *retary of Labor finds that a complaint under*
24 *paragraph (1) is frivolous or has been brought in*
25 *bad faith, the Secretary of Labor may award to*

1 *the prevailing employer a reasonable attorney's*
 2 *fee not exceeding \$1,000.*

3 *“(4) REVIEW.—*

4 *“(A) APPEAL TO COURT OF APPEALS.—Any*
 5 *person adversely affected or aggrieved by an*
 6 *order issued under paragraph (3) may obtain re-*
 7 *view of the order in the United States Court of*
 8 *Appeals for the circuit in which the violation,*
 9 *with respect to which the order was issued, alleg-*
 10 *edly occurred or the circuit in which the com-*
 11 *plainant resided on the date of such violation.*
 12 *The petition for review must be filed not later*
 13 *than 60 days after the date of issuance of the*
 14 *final order of the Secretary of Labor. Review*
 15 *shall conform to chapter 7 of title 5, United*
 16 *States Code. The commencement of proceedings*
 17 *under this subparagraph shall not, unless or-*
 18 *dered by the court, operate as a stay of the order.*

19 *“(B) LIMITATION ON COLLATERAL AT-*
 20 *TACK.—An order of the Secretary of Labor with*
 21 *respect to which review could have been obtained*
 22 *under subparagraph (A) shall not be subject to*
 23 *judicial review in any criminal or other civil*
 24 *proceeding.*

1 “(5) *ENFORCEMENT OF ORDER BY SECRETARY*
 2 *OF LABOR.*—Whenever any person has failed to com-
 3 ply with an order issued under paragraph (3), the
 4 Secretary of Labor may file a civil action in the
 5 United States district court for the district in which
 6 the violation was found to occur to enforce such order.
 7 In actions brought under this paragraph, the district
 8 courts shall have jurisdiction to grant all appropriate
 9 relief, including, but not to be limited to, injunctive
 10 relief and compensatory damages.

11 “(6) *ENFORCEMENT OF ORDER BY PARTIES.*—

12 “(A) *COMMENCEMENT OF ACTION.*—A per-
 13 son on whose behalf an order was issued under
 14 paragraph (3) may commence a civil action
 15 against the person to whom such order was
 16 issued to require compliance with such order.
 17 The appropriate United States district court
 18 shall have jurisdiction, without regard to the
 19 amount in controversy or the citizenship of the
 20 parties, to enforce such order.

21 “(B) *ATTORNEY FEES.*—The court, in
 22 issuing any final order under this paragraph,
 23 may award costs of litigation (including reason-
 24 able attorney and expert witness fees) to any

1 *party whenever the court determines such award*
 2 *costs is appropriate.*

3 “(c) *MANDAMUS.*—*Any nondiscretionary duty im-*
 4 *posed by this section shall be enforceable in a mandamus*
 5 *proceeding brought under section 1361 of title 28, United*
 6 *States Code.*

7 “(d) *NONAPPLICABILITY TO DELIBERATE VIOLA-*
 8 *TIONS.*—*Subsection (a) shall not apply with respect to an*
 9 *employee of a pipeline, contractor or subcontractor who,*
 10 *acting without direction from the pipeline contractor or*
 11 *subcontractor (or such person’s agent), deliberately causes*
 12 *a violation of any requirement relating to pipeline safety*
 13 *under this chapter or any other law of the United States.*

14 “(e) *CONTRACTOR DEFINED.*—*In this section, the term*
 15 *‘contractor’ means a company that performs safety-sensitive*
 16 *functions by contract for a pipeline.’.*

17 “(b) *CIVIL PENALTY.*—*Section 60122(a) is amended by*
 18 *adding at the end the following:*

19 “(3) *A person violating section 60129, or an order*
 20 *issued thereunder, is liable to the Government for a civil*
 21 *penalty of not more than \$1,000 for each violation. The*
 22 *penalties provided by paragraph (1) do not apply to a vio-*
 23 *lation of section 60129 or an order issued thereunder.’.*

1 (c) *CONFORMING AMENDMENT.*—*The chapter analysis*
 2 *for chapter 601 is amended by adding at the end the fol-*
 3 *lowing:*

“60129. Protection of employees providing pipeline safety information.”.

4 **SEC. 15. PIPELINE SAFETY ADVISORY COUNCIL PILOT PRO-**
 5 **GRAM.**

6 (a) *PILOT PROGRAM.*—*Within 120 days after the date*
 7 *of enactment of this Act, the Secretary of Transportation*
 8 *shall create a Pipeline Safety Advisory Council pilot pro-*
 9 *gram. Under the pilot program, the Secretary shall estab-*
 10 *lish one or more Pipeline Safety Advisory Councils to pro-*
 11 *vide advice and recommendations to the Secretary on a*
 12 *range of hazardous liquid or natural gas transmission pipe-*
 13 *line safety issues affecting pipelines operated in the State*
 14 *in which the Council is established.*

15 (b) *ESTABLISHMENT AND COMPOSITION.*—*A Council*
 16 *shall be comprised of 11 members, appointed by the Sec-*
 17 *retary as follows:*

18 (1) *All members shall be residents of the State in*
 19 *which the pipelines are located the safety of which*
 20 *that Council is to review and monitor.*

21 (2) *The membership shall include representatives*
 22 *of—*

23 (A) *the general public (who are not rep-*
 24 *resentatives of any other category under this*
 25 *paragraph);*

1 (B) pipeline right-of-way property owners
 2 (who are not representatives of any other cat-
 3 egory under this paragraph);

4 (C) local governments;

5 (D) emergency responders;

6 (E) environmental organizations; and

7 (F) State officials with jurisdiction over
 8 pipeline safety.

9 (c) *FUNCTIONS.*—Each Advisory Council shall provide
 10 advice to the Secretary on pipeline safety regulations and
 11 other matters relating to activities and functions of the De-
 12 partment of Transportation’s Office of Pipeline Safety.
 13 Each meeting shall be open to the public and the Council
 14 shall maintain minutes of each meeting. Any recommenda-
 15 tions made by a Council shall be available upon request
 16 to other interested parties. In carrying out its advisory du-
 17 ties, each Council shall—

18 (1) provide advice and recommendations on poli-
 19 cies, permits, and regulations relating to the oper-
 20 ation and maintenance of pipeline facilities which af-
 21 fect the State to the Secretary and the Governor of the
 22 State;

23 (2) review and comment on proposals for new
 24 pipeline facilities in the State, including issues of
 25 public safety and environmental impact;

1 (3) *submit advice to the Secretary on permits*
 2 *and standards that would affect the environment and*
 3 *safety of a pipeline operating in that State;*

4 (4) *submit recommendations to the Secretary*
 5 *and appropriate authorities of the State on standards*
 6 *to improve pipeline safety, accidental release re-*
 7 *sponses, emergency preparedness, and efforts to help*
 8 *the public live safely with pipelines; and*

9 (5) *provide an annual report to the Secretary on*
 10 *its activities and the steps taken in the State to ad-*
 11 *dress its advice and safety recommendations.*

12 (d) *FUNDING.—*

13 (1) *FUNDING REQUEST BY COUNCIL.—Each*
 14 *Council shall submit an application for a funding re-*
 15 *quest to the Secretary, at such time, in such form,*
 16 *and containing such information as the Secretary*
 17 *may require, outlining the Council's budget.*

18 (2) *SECRETARY TO APPROVE BUDGET AND PRO-*
 19 *VIDE FUNDS.—After receiving a request under para-*
 20 *graph (1) from a Council, the Secretary shall deter-*
 21 *mine the level of Council funding and may—*

22 (A) *utilize funds obtained from fines and*
 23 *penalties to finance the Council; or*

24 (B) *make appropriated funds available to*
 25 *the Council.*

1 (e) *PILOT PROGRAM ASSESSMENT.*—A Council estab-
 2 lished under this section shall submit an annual report to
 3 the Secretary. The annual report shall list all activities un-
 4 dertaken by the Council to improve the safety of pipelines
 5 located within its State and what action taken was by the
 6 State and Department of Transportation to address pipe-
 7 line operation safety as a result of the Council’s activities.
 8 Based on the submitted annual reports, and any other ma-
 9 terial a Council may submit, the Secretary shall determine
 10 the need for continuing and, if appropriate, expanding the
 11 pilot program. The Secretary shall report that determina-
 12 tion, together with any recommendations concerning the
 13 program, to the House of Representatives Committee on
 14 Transportation and Infrastructure and the Senate Com-
 15 mittee on Commerce, Science, and Transportation by De-
 16 cember 31, 2004.

17 **SEC. 16. FINES AND PENALTIES.**

18 The Inspector General of the Department of Transpor-
 19 tation shall conduct an analysis of the Department’s assess-
 20 ment of fines and penalties on gas transmission and haz-
 21 ardous liquid pipelines, including the cost of corrective ac-
 22 tions required by the Department in lieu of fines, and, no
 23 later than 6 months after the date of enactment of this Act,
 24 shall provide a report to the Senate Committee on Com-
 25 merce, Science, and Transportation and the House Com-

1 *mittee on Transportation and Infrastructure on any find-*
2 *ings and recommendations for actions by the Secretary or*
3 *Congress to ensure the fines assessed are an effective deter-*
4 *rent for reducing safety risks.*

5 **SEC. 17. STUDY OF RIGHTS-OF-WAY.**

6 *The Secretary of Transportation is authorized to con-*
7 *duct a study on how best to preserve environmental re-*
8 *sources in conjunction with maintaining pipeline rights-*
9 *of-way. The study shall recognize pipeline operators' regu-*
10 *latory obligations to maintain rights-of-way and to protect*
11 *public safety.*

Calendar No. 763

106TH CONGRESS
2D SESSION

S. 2438

[Report No. 106-387]

A BILL

To provide for enhanced safety, public awareness,
and environmental protection in pipeline trans-
portation, and for other purposes.

AUGUST 25, 2000

Reported with an amendment in the nature of a
substitute